

Decision 04-01-043 January 22, 2004

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion into Competition for  
Local Exchange Service.

Rulemaking 95-04-043  
(Petition for Modification  
filed August 7, 2003)

Order Instituting Investigation on the  
Commission's Own Motion into Competition for  
Local Exchange Service.

Investigation 95-04-044  
(Petition for Modification  
filed August 7, 2003)

**DECISION MODIFYING DECISION 02-08-067  
BY DELETING RULES 7 AND 9 FROM ATTACHMENT B**

**Summary**

In Decision (D.) 02-08-067, the Commission adopted rules regarding, among other things, the ownership of Service Provisioning Cross-Connects (SPCs).<sup>1</sup> The adopted rules were included as Attachment B to the decision. Rule 7 requires that, when a tenant switches local exchange telephone service from one carrier to another, the new carrier shall not disconnect the previous carrier's SPCs until at least 24 hours after the previous carrier has been notified of the switch. Rule 9 requires carriers to make a phone number available so that the notices required by Rule 7 can be made. This decision grants the unopposed

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<sup>1</sup> SPCs are wires that connect the carrier's network access termination point to the building owner's access terminal. They may be removed or changed when a customer switches from one provider to another.

petition of Cox California Telecom, L.L.C. (Cox) to delete Rule 7 because it is not needed, and is costly to implement. In addition, we delete Rule 9 whose only purpose is to facilitate compliance with Rule 7.

## **Discussion**

On August 7, 2003, Cox filed a petition to modify D.02-08-067. Cox requests that Rule 7 of Attachment B to that decision be deleted. Cox represents that the rule presents extraordinary, unanticipated implementation problems, and is costly to implement. Verizon California Incorporated filed comments in support of the petition. No other responses to the petition were filed.

Rule 7 provides that: “When a tenant switches service from one utility to another, the new carrier shall not disconnect the previous carrier’s SPCs until at least 24-hours after the previous carrier has been notified of the switch. Notice may be made by phone, or by any other means where such other means are available.” The purpose of Rule 7 is to allow the losing carrier 24 hours notice of the disconnection of its SPCs so that it may take any actions it believes are necessary to protect its SPCs.

Rule 9 provides that: “All carriers shall establish and make available to other carriers a phone number where notice of a customer’s switch to another carrier can be made. The phone number shall be capable of receiving incoming calls 24 hours per day, seven days per week. The phone number may also be used for other purposes.” The purpose of Rule 9 is to ensure that there is a phone number available so that the notices required by Rule 7 can be made.

Cox represents that Rule 7 might work when the same customer moves his or her existing local exchange service between two providers that have their own facilities, and the customer retains the same phone number. Cox maintains, however, that the rule does not work in many instances, such as when:

- The customer does not retain the same phone number.
- A tenant moves out of a rental unit, and a new tenant requests service.
- A customer moves to a carrier with an alternate network.

Cox also represents that implementation is costly, and few carriers have the need for such notification.

On October 16, 2003, the assigned Administrative Law Judge (ALJ) issued a ruling seeking comments on the petition. The ruling stated that if Rule 7 were deleted, Rule 9 may also be unnecessary. The ruling also stated that any party who does not file in response to the ruling will be presumed to be indifferent to whether Rules 7 and 9 are deleted. Comcast Phone of California, L.L.C. (Comcast) filed a response to the ruling agreeing that Rule 7 should be deleted for the same reasons given by Cox.<sup>2</sup> No other responses to the ruling were filed.

Rules 7 and 9 were intended to allow the previous carrier time to take action to protect its SPCs if it chooses to do so. Two carriers have made filings in support of the petition. Since there were no responses to the ALJ ruling that opposed the deletion of Rules 7 and 9, we find that the other carriers are indifferent. Therefore, we have no reason to believe the rules are necessary. In addition, there is no reason to believe that deletion of these two rules would have an adverse impact on customers because the rules only apply to a previous carrier who is, or will be, no longer providing service. In addition, removal of the 24-hour notice requirement would allow the new carrier to provide service sooner. As a result, we will modify Attachment B to D.02-08-067 to delete Rules 7 and 9.

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<sup>2</sup> Comcast's comments did not mention Rule 9.

### **Comments on Draft Decision**

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Verizon California Incorporated filed comments in support of the petition. No other responses to the petition were filed.

2. Rule 7 of Attachment B to D.02-08-067 provides that: "When a tenant switches service from one utility to another, the new carrier shall not disconnect the previous carrier's SPCs until at least 24 hours after the previous carrier has been notified of the switch. Notice may be made by phone, or by any other means where such other means are available."

3. The purpose of Rule 7 is to allow the losing carrier 24 hours notice of the disconnection of its SPCs so that it may take any actions it believes are necessary to protect its SPCs.

4. Rule 9 of Attachment B to D.02-08-067 provides that: "All carriers shall establish and make available to other carriers a phone number where notice of a customer's switch to another carrier can be made. The phone number shall be capable of receiving incoming calls 24 hours per day, seven days per week. The phone number may also be used for other purposes."

5. The purpose of Rule 9 is to ensure that there is a phone number available so that the notice required by Rule 7 can be made.

6. On October 16, 2003, the assigned ALJ issued a ruling seeking comments on the petition, and stating that if Rule 7 were deleted, Rule 9 may also be unnecessary. The ruling also stated that any party who does not file in response to the ruling would be presumed to be indifferent to whether Rules 7 and 9 are deleted.

7. Comcast filed a response to the ruling in support of the petition.

8. No party filed a response to the ruling opposing the removal of Rules 7 and 9.

9. Rule 7 only applies to a previous carrier who is, or will be, no longer providing service.

10. Removal of the 24-hour notice requirement in Rule 7 would allow the new carrier to provide service sooner.

### **Conclusions of Law**

1. The petition is unopposed.

2. Since there were no responses to the ruling in opposition to the removal of Rules 7 and 9, the utilities are indifferent to their deletion.

3. Rules 7 and 9 are not necessary.

4. There is no reason to believe that deletion of Rules 7 and 9 would have an adverse impact on customers.

5. Decision 02-08-067 should be modified to delete Rules 7 and 9 from Attachment B.

**O R D E R**

**IT IS ORDERED** that Decision 02-08-067 is modified by the deletion of Rules 7 and 9 from Attachment B.

This order is effective today.

Dated January 22, 2004, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners